

## Criminal Accountability For Actors Of Criminal Actions

Suparjo<sup>\*)</sup>

<sup>\*)</sup> Faculty of Law, Sultan Agung Islamic University email: suparjo.jrpermata117@gmail.com

### Abstract

*The objectives in this study are: To study and factors that cause driver negligence that causes traffic accidents To study and analyze criminal responsibility for the perpetrators of past crimes. The method used by researchers is normative legal approach and specifications in this study are included descriptive. As for the sources and types of secondary data obtained from literature studies. Based on the results of that research Factors Causing Driver Negligence Causing Traffic Accidents are the human factor, This happens because of the driver's carelessness or negligence in driving his vehicle, the driver's carelessness often causes traffic accidents that result in death. Environmental factors, there was a traffic accident around the scene when the lights went out because the power went out and it didn't turn on so the suspect saw clearly the glare of the lights, there was a motorcycle vehicle, he didn't know it was coming from the opposite direction. Criminal Liability for the Perpetrators of Laka Crimes Then is regulated in Article 310 paragraph (4) of Law no. 22 of 2009 concerning Road Traffic and Transportation and Article 312 of Law no. 22 of 2009 concerning Road Traffic and Transportation as well as Law Number 8 of 1981 concerning Criminal Procedure Code and other laws and regulations related to this case sentenced the Defendant to imprisonment for 2 (two) years.*

*Keywords : Criminal Liability, Actors, Criminal Acts, Accidents*

### 1. Introduction

The Indonesian government has tried to carry out development in various fields. In order to support national development and integration as part of efforts to promote general welfare for the community, as mandated by the 1945 Constitution of the Republic of Indonesia. This development does not only cover physical development, such as building construction, road construction, construction of public facilities, repairs roads, but in other purposes it also increases security for the community, because a safe life is one of the factors that encourage the creation of community welfare. The security in question does not only mean there is no war but can also include security in other aspects, one of which is the safety of using the highway.<sup>1</sup>

Road Traffic and Transportation has a strategic role in supporting national development and integration as part of efforts to advance public welfare as mandated by the 1945 Constitution of the Republic of Indonesia. As part of the national transportation system, Road Traffic and Transportation must develop its potential and role to realize security, welfare, order in traffic and road transportation in the context of supporting economic development and development of science and technology, regional autonomy, and accountability for administering the state.

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<sup>1</sup> Suwardjoko Warpani, 2022, Traffic Management and Road Transportation, Bhatara Karya Husada: Bandung, page 3.

The decline in the image of the Police in the eyes of the public is an important issue which continues to imprison the Police in carrying out their duties and authorities as security guards and public order, law enforcement, and providing guidance, protection and creating security, order and smooth traffic in serving the community.<sup>2</sup>

There are several new developments that have not been accommodated by traffic regulations. For example, the range of alarms that should be more. Although several rules have been accommodated through Regional Regulations (Perda). Many provisions were left behind due to the development of society, in addition to many customary laws and regulations, which became unenforceable. For example, the need to endure night lighting for motorized or motorized vehicles hardly applies to goods and bicycle rickshaws. Repression against them is almost never carried out, or if it is, it creates an uncomfortable reaction for the officers themselves.<sup>3</sup>

In order to reduce the number of Traffic Accidents which is very high every year, future efforts directed by this law are to comprehensively deal with efforts to guide, prevent, regulate and enforce the law. The coaching efforts are carried out through increasing the intensity of traffic education and legal counseling as well as human resource development.

The importance of this transportation is reflected in the increasing need for transportation services for the mobility of people and goods from and to all corners of the country, even to and from abroad. Besides that, transportation also plays a role as a supporter, driver, and driving force for regional growth that has the potential, but has not yet developed, in an effort to increase and distribute development and its results.<sup>4</sup>

Legal studies to declare someone guilty, must consider the issue of criminal responsibility for someone whose negligence causes the death of another person. Criminal liability relates to a person's guilt.<sup>5</sup>The error referred to here is an error caused by deliberateness (*dolus*) or negligence (*negligence* or *schuld*). In which the two things are distinguished, intentionality is desired while negligence is unwanted.<sup>6</sup>

Criminal liability is not possible for a person who commits a crime without an element of error, so the element of error becomes the central point, the concept of criminal responsibility or in other words the intended error is one of the characteristics of criminal law that cannot be erased. Therefore there is the principle of "no crime

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<sup>2</sup>Riyanto, Umar Ma'ruf and Sri Kusriyah, 2020, Implementation Of Police Role In Countermeasures Of Traffic Criminal Acts Of Traffic Violations In Efforts To Establish Police Images As Community Guidelines, in *Daulat Hukum Journal* Volume 3 (1), Published Master Of Law, Faculty of Law Unissula, p. 267 <http://jurnal.unissula.ac.id/index.php/RH/article/view/9385/4154>

<sup>3</sup>Anton Susanto, Ira Alia Maerani and Maryanto, 2020, Legal Enforcement by the Police against Child of Criminal Doer of a Traffic Accident Who Caused Death (Case Study in Traffic Accident of Police Traffic Unit of Cirebon City Police Jurisdiction), in *Daulat Hukum Journal* Volume 3 (1), Published Master of Law, Faculty of Law Unissula, p. 21 <http://jurnal.unissula.ac.id/index.php/RH/article/view/8402/3928>

<sup>4</sup>CTS Kansil, 1995, *Traffic Discipline on the Highway*, Rineka Cipta, Jakarta, p. 4.

<sup>5</sup>Leden Marpaung, 2002, *Crime Against Life and Body*, Sinar Graphic, Jakarta, p. 20.

<sup>6</sup>Leden Marpaung, 2009, *Principles of Theory of Criminal Law Practice*, Sinar Graphic, Jakarta, p. 25

without fault" (geen straf zonder schuld), which means that a person can only be held criminally responsible for a crime committed if that person has a fault.<sup>7</sup>

The purpose of this study is to examine and factors that cause driver negligence that causes traffic accidents. To examine and analyze criminal responsibility for the perpetrators of past crimes.

## **2. Research methods**

The method used by researchers is normative legal approach and specifications in this study are included descriptive. As for the sources and types of secondary data obtained from literature studies.

## **3. Research Results and Discussion**

### **3.1. Factors Causing Negligence of Drivers Causing Traffic Accidents in the jurisdiction of the Cirebon City Police**

Road traffic and transportation which has its own characteristics and advantages need to be developed and utilized so that it is able to reach all remote areas of the mainland with high mobility and is able to integrate other modes of transportation. Its elements consisting of road transportation networks, vehicles and their drivers, as well as regulations, procedures and methods in such a way as to create a complete, efficient and effective totality.

In its development, road traffic can be a problem for humans, because more and more people are moving or moving from one place to another, and the increasing number of people using road transportation means, this will affect the high and low number of traffic accidents. In traffic accidents that occur, among others, are caused by fatigue, carelessness, carelessness, and boredom experienced by drivers. It is no exaggeration that all traffic accidents involving private vehicles or public vehicles are caused by drivers, pedestrians, vehicles, facilities and infrastructure, officers/law enforcers in road traffic. Factors of traffic accidents that often occur due to human error (human factor).

In its development, the perpetrators of road traffic crimes are obliged to provide compensation to their victims. Compensation for victims of road traffic crimes at this time seems to have become an obligation, especially if the perpetrator is a person who has a strong economic position or in other words has more money. Even though the perpetrator has taken responsibility and the existence of reconciliation with the victim's family does not eliminate the criminal charge. The defendant is still subject to punishment even though there has been reconciliation and the defendant himself also suffered injuries, for example a fractured left hand and was unconscious in the accident. Even so, the perpetrator still needs to seek peace with the victim's family because the judge can consider this to reduce the sentence. Otherwise,

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<sup>7</sup>Hanafi, 2015, Criminal Accountability System, Raja Grafindo Persada, Jakarta, p. 22-23

In more detail Article 310 paragraph (4) of Law Number 22 of 2009 which states that: In the case of an accident as referred to in paragraph (3) which results in another person's death, the penalty shall be imprisonment for a maximum of 6 (six) years and/or a maximum fine of Rp. 12,000,000.00 (twelve million rupiah). The criminal elements contained and must be fulfilled in the rules of Article 310 paragraph (4) of Law Number 22 of 2009 include: (1) Everyone; (2) Driving a motorized vehicle; (3) Due to negligence; and (4) Causing other people to die.

The law cannot stand by itself, meaning that the law (legal substance) is not able to realize the promises and wills contained in the law (regulations) on its own. These promises and intentions, for example to grant rights to someone, provide protection to someone, impose a sentence on someone who meets certain requirements, and so on.<sup>8</sup>

In the Criminal Code (hereinafter referred to as the Criminal Code), negligence is usually also referred to as error, carelessness, or negligence. Article 359 of the Criminal Code states that "Whoever because of his mistake (negligence) causes another person to die, is threatened with imprisonment for a maximum of five years or imprisonment for a maximum of one year. "The law does not define what negligence is. Only the explanatory memory (Memorei van Toelichting) says, that the negligence (culpa) lies on purpose and coincidence. However the culpa was seen as lighter than on purpose. Therefore, Hazewinkel-Suringa said that the culpa offense was a quasi-delict (Quasidelict) so that a sentence reduction was made.<sup>9</sup>

Traffic accidents according to Article 1 number 24 of the Law of the Republic of Indonesia Number 22 of 2009 concerning road traffic and transportation (UU LLAJ) are an incident on the road that is unexpected and unintentional involving vehicles or other road users resulting in human casualties and losses. property.<sup>10</sup>

Often people think that traffic accidents cause death, the fault is always on the driver of the vehicle involved. Meanwhile, according to the prevailing legal theory that a person's fault is seen from the actual incident factors, what factors caused the traffic accident. This can be revealed from the chronology of events and eyewitnesses who saw the accident happen.<sup>11</sup>

To the fault of the driver of the vehicle can often be concluded that they do not use traffic rules. For example, he doesn't give a signal to turn, or he doesn't drive in the left lane, or at an intersection he doesn't give priority to other vehicles coming from the left, or he drives the car too fast beyond the speed limit specified in traffic signs.<sup>12</sup>

AdamYes, an accident is a factor of driver error in the absence of a sense of caution and negligence in driving the vehicle. The mistake of a vehicle driver who

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<sup>8</sup>Viswandro, Maria Matilda and Bayu Saputra, 2015, Getting to Know the Law Enforcement Profession, Reference Book for a Career in the Field of Law, Judge-Prosecutor-Police-Advocate, First Edition, Pustaka Yustisia, Yogyakarta, p. 3

<sup>9</sup> Andi Hamzah, 2010, Principles of Criminal Law. Rineke Cipta, Jakarta, p. 133

<sup>10</sup> Focusmedia, 2009. Four Transportation Laws. Bandung, p. 4-5

<sup>11</sup> Agio V Sangki. 2012, Criminal Responsibilities of Vehicle Drivers Causing Safety in Traffic Accidents, Lex Crimen Vol.I/No.1/Jan-Mrt/2012. p. 2

<sup>12</sup> Wirjono Prodjodikoro, 1967, Certain Criminal Acts in Indonesia, Eresco Bandung, p..80

commits an oversight resulting in death can be said that the person has committed a crime.

In relation to this problem, the element of negligence plays an important role, issues of negligence in the Criminal Code (KUHPidana) have been regulated in Chapter XXI of book II, starting from Article 359 to Article 361. Criminal sanctions for vehicle drivers whose negligence causing death is regulated in Article 359 of the Criminal Code, namely: "Whoever because of his negligence causes the death of another person is threatened with imprisonment for a maximum of five years or imprisonment for a maximum of one year."<sup>13</sup>

Factors Causing Driver Negligence Causing Traffic Accidents are the human factor, This happens because of the driver's carelessness or negligence in driving his vehicle, the driver's carelessness often causes traffic accidents that result in death. Environmental factors, there was a traffic accident around the incident where the lights were out because the power went out it didn't turn on so the suspect saw clearly the glare of the lights there was a motorbike vehicle he didn't know it was coming from the opposite direction

### **3.2. Criminal Liability Against the Actors of Laka Crimes**

The occurrence of traffic accidents is influenced by several such factors, in which these factors seem to work together as a cause of traffic accidents. It's getting worse when humans themselves don't seem so concerned with the safety of their lives with the evidence that there are many reckless motorists without wearing helmets or car drivers who don't use seat belts. Article 229 paragraph (1) of the LLAJ Law classifies various types of accidents, namely: 1. Minor Traffic Accidents, 2. Moderate Traffic Accidents, or 3. Serious Traffic Accidents.

Criminal responsibility is in foreign terms also known as *theorekenbaardheid* or criminal responsibility. In criminal law, criminal responsibility is personal or individual, so that accountability is only imposed on the perpetrators of criminal acts. Therefore criminal responsibility cannot be transferred to other people. Criminal liability is intended to determine the circumstances of a perpetrator of a criminal act against whether or not a perpetrator is sentenced to a criminal act that has been committed.<sup>14</sup> In criminal liability there are several conditions that affect, so that someone who commits a criminal act can be punished.

The fatality rate of a traffic accident is measured by the consequences of the accident. The more victims die as a result of accidents that occur, the higher the traffic accident fatality. This fatality rate is measured by certain coefficients. Similarly, in taking steps to reduce the number of accidents, the fatality rate of an accident must be reduced, of course, by paying attention to and prioritizing safety factors in driving by

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<sup>13</sup> Moeljatno, 1983, Criminal Code (KUHP), Bumi Script, Jakarta, p. 127

<sup>14</sup> Fitria Dewi Navisa, 2022, Legal Protection for Data Leakage and Personal Information on Air Transportation Passengers, Jurisprudence: Journal of the Faculty of Law, Islamic University of Malang Vol 5 No. 1, pp. 125-140

complying with applicable regulations.<sup>15</sup>Traffic accidents often occur in people's lives, even the perpetrators are often underage. This is due to a lack of legal awareness and supervision from parents so that children are allowed to drive motorized vehicles before having a driver's license.<sup>16</sup>

In every case of a traffic accident that occurs on the highway, of course, has legal consequences for the driver of the vehicle. The legal provisions governing fatal accidents that result in injury or death of a person, in general, are the Criminal Code (KUHP) and specifically regulated in Law (UU) No. 22 of 2009 concerning Traffic.<sup>17</sup>

Criminal Liability for the Perpetrators of Laka Crimes Then is regulated in Article 310 paragraph (4) of Law no. 22 of 2009 concerning Road Traffic and Transportation and Article 312 of Law no. 22 of 2009 concerning Road Traffic and Transportation as well as Law Number 8 of 1981 concerning Criminal Procedure Code and other laws and regulations related to this case sentenced the Defendant to imprisonment for 2 (two) years. Determine the period of arrest and detention that has been served by the Defendant to be deducted entirely from the sentence imposed.

#### 4. Closing

Based on the results of the research and discussion, the following conclusions and suggestions can be drawn: Factors Causing Driver Negligence Causing Traffic Accidents are the human factor, This happens because of the driver's carelessness or negligence in driving his vehicle, the driver's carelessness often causes traffic accidents that result in death. Environmental factors, there was a traffic accident around the scene when the lights went out because the power went out and it didn't turn on so the suspect saw clearly the glare of the lights, there was a motorcycle vehicle, he didn't know it was coming from the opposite direction. Criminal Liability for the Perpetrators of Laka Crimes Then is regulated in Article 310 paragraph (4) of Law no. 22 of 2009 concerning Road Traffic and Transportation and Article 312 of Law no. 22 of 2009 concerning Road Traffic and Transportation as well as Law Number 8 of 1981 concerning Criminal Procedure Code and other laws and regulations related to this case sentenced the Defendant to imprisonment for 2 (two) years. Determine the period of arrest and detention that has been served by the Defendant to be deducted entirely from the sentence imposed.

Suggestions from this study are to law enforcers and the government to be able to provide appropriate penalties for traffic negligence perpetrators who cause the loss of other people's lives so that they can provide a deterrent effect and fulfill a sense of justice. The government together with law enforcement officers must also pay attention to preventive steps for the future, so that there will be no more perpetrators

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<sup>15</sup>Dadik Purnomo, Jawade Hafidz, The Role of the Rembang Police Traffic Unit in Reducing Traffic Accidents, Journal of Daulat Hukum Vol. 1.No. March 1, 2018 ISSN: 2614-560X

<sup>16</sup>Preliyanto Puji Utomo, Umar Ma'ruf, and Bambang Tri Bawono, Application Of Act No. 22 Of 2009 As A Traffic Accidents Countermeasures Management In The Blora Police Law Area, Jurnal Daulat Hukum Volume 3 Issue 2, June 2020 ISSN: 2614-560X

<sup>17</sup>Muhammad Dani Hamzah, Law Enforcement in Traffic Accident Crime Cases that Cause the Loss of People's Lives, Journal of Daulat Hukum Vol. 1.No. March 1, 2018 ISSN: 2614-560X



who commit traffic negligence which causes other people to die. To the general public, to be more careful in using motorized vehicles in traffic and always obey traffic rules.

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